

Justin Fok, Esq., CSB#242272
Law Offices of Jean D. Chen
2107 N. First Street, Suite 400
San Jose, CA 95131
Telephone: (408) 437-1788
Facsimile: (408) 437-9788
Email: jfok@jclawoffice.com

Attorney for Plaintiff
Qin Chen

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

Qin Chen,

Plaintiff,

v.

Michael B. Mukasey, United States Attorney
General
Michael Chertoff, Secretary of the
Department of Homeland Security;
Emilio T. Gonzalez, Director of United States
Citizenship and Immigration Services;
Robert S. Mueller III, Director of the Federal
Bureau of Investigation,

Defendants.

Case No. C 07-04688 HRL

**JOINT CASE MANAGEMENT
STATEMENT; AND [PROPOSED]
ORDER**

Plaintiff, by and through his attorney of record, and Defendants, by and through their attorney of record, hereby submit this Joint Case Management Statement (JCMS). The parties respectfully request that the Court take this JCMS as the Case Management Statement for this case and vacate the Case Management Conference which is currently scheduled for December 18, 2007.

1. Jurisdiction and Service

The basis asserted by Plaintiff for this Court's jurisdiction is 28 U.S.C. § 1361, 28 U.S.C. § 1331, and 5 U.S.C. §§ 551, 702. The parties do not dispute that venue is proper in this district. No issues exist regarding personal jurisdiction or venue, and no parties remain to be served.

2. Facts

Plaintiff is a native of China who applied to adjust his status to lawful permanent residence with the United States Citizenship and Immigration Services (USCIS) on March 31, 2004. The USCIS has yet to adjudicate Plaintiff's I-485 application. The plaintiff filed this action on September 11, 2007, seeking an order from this Court directing USCIS to adjudicate his I-485 application.

3. Legal Issues

1. Whether this Court should dismiss the plaintiff's action for failure to state a claim and for lack of subject matter jurisdiction.

2. Whether the delay in the adjudication of Plaintiff's I-485 application is unreasonable.

4. Motions

No motions have been filed. The parties intend to file cross-motions for summary judgment.

5. Amendment of Pleadings

No parties, claims or defenses are expected to be added or dismissed.

6. Evidence Preservation

The parties do not have any evidence that falls within this category.

7. Disclosures

The parties believe that review will be confined to the administrative record and thus the disclosure requirements of Fed. R. Civ. P. 26 do not apply.

8. Discovery

The parties do not intend to take any discovery in this case.

9. Class Actions

N/A

10. Related Cases

1 The parties are not aware of any related case or cases.

2 **11. Relief**

3 The plaintiff asks this Court to direct the USCIS to adjudicate his I-485 application within 60
4 days of receiving the Court's order.

5 **12. Settlements and ADR**

6 On November 28, 2007, the parties were excused from the formal ADR process.

7 **13. Consent to Magistrate Judge for All Purposes**

8 The parties have consented to proceed before a Magistrate Judge.

9 **14. Other References**

10 The parties do not believe that this case is suitable for reference to binding arbitration, a special
11 master, or the Judicial Panel on Multidistrict Litigation.

12 **15. Narrowing of Issues**

13 The parties do not believe that the issues can be narrowed by agreement or by motion, and do not
14 have suggestions to expedite the presentation of evidence at trial, and any request to bifurcate
15 issues, claims or defenses.

16 **16. Expedited Schedule**

17 The parties believe this case can be resolved on cross motions for summary judgment.

18 **17. Scheduling**

19 The parties will notice and move for summary judgment with the following proposed due dates:

20 Parties' cross-motions for summary judgment: January 15, 2008

21 Parties' opposition motions: January 29, 2008

22 The Parties respectfully request that the Court take this matter under submission based on the
23 above motions and that no summary judgment hearing be held for this case. Should the Court
24 deem that a hearing is necessary, the parties propose a summary judgment hearing date of
25 February 19, 2008.

26 **18. Trial**

27 The parties do not anticipate the need for a trial in this case.

19. Disclosure of Non-Party Interested Entities or Persons

The plaintiff filed the "Certification of Interested Entities or Persons" required by Civil Local Rule 3-16 on September 11, 2007.

20. Such other matters as may facilitate the just, speedy and inexpensive disposition of this matter

None.

Dated: December 11, 2007

Respectfully submitted,

/s/

Justin G. Fok
Law Offices of Jean D. Chen
Attorney for Plaintiff

Dated: December 11, 2007

/s/

Melanie L. Proctor
Assistant United States Attorney
Attorney for Defendants

///

///

///

///

///

///

///

///

///

///

///

///

///

ORDER

The Case Management Statement and Proposed Order are hereby adopted as the Case Management Order for the case and the parties are hereby ordered to comply with this order. The Case Management Conference currently scheduled for December 18, 2007, is hereby vacated.

Dated: _____

Howard R. Lloyd
United States Magistrate Judge

ORDER

The Case Management Statement and Proposed Order are hereby adopted as the Case Management Order for the case and the parties are hereby ordered to comply with this order.

Dated: _____

Howard R. Lloyd
United States Magistrate Judge